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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,341	01/24/2006	Michael Vogel	568-PDD-03-09-US-[10P]	7825
69683	7590	01/21/2011		
C. R. Bard, Inc. Bard Peripheral Vascular, Inc. 1415 W. 3rd St PO Box 1740 Tempe, AZ 85280-1740			EXAMINER SCHUBERT, CHRISTOPHER	
			ART UNIT 3734	PAPER NUMBER
			NOTIFICATION DATE 01/21/2011	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Jacki.Daspi@crbard.com  
Patents@Rutan.com

# Office Action Summary

**Application No.**

10/564,341

**Applicant(s)**

VOGEL ET AL.

**Examiner**

CHRISTOPHER SCHUBERT

**Art Unit**

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 10, 11, 13-15, 17-28 and 30 is/are pending in the application.
- 4a) Of the above claim(s) 2, 6, 7, 13, 15, 17-20, 25 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 8, 10-11, 14, 21-24, 26, 27 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

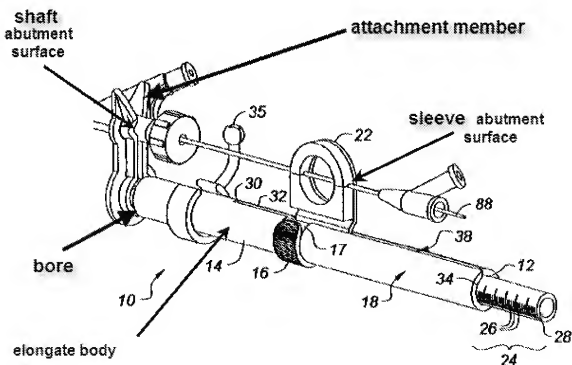
2. Claims 1, 3-5, 8, 10-11, 14, 21-23, 26, 27, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korotko et al. (US 6,450,976) in view of Duell (US 3025581)

Regarding claim 1, Korotko et al discloses a device capable of being used as a safety clip for a medical catheter that comprises a shaft and a sleeve, the device comprising: an elongate body (14) having a first end, a second end and an intermediate portion, the elongate body first end including a slot 38; an attachment member (11, Fig 1) including a gripping jaw (gripping jaw attaches 11 to 80 in fig 5) and a bore adjacent the gripping jaw wherein the elongate body is disposed in the bore; and a sleeve abutment surface (see figure below) slidably disposed in the elongate body slot and a shaft abutment surface (see figure below) coupled to the second end of the elongate body spaced from the first end of the body, the sleeve abutment surface and the shaft abutment surface coupled to the shaft, one of the sleeve abutment surface and shaft abutment surface defining a sliding member (22) configured for stepless adjustment of the distance separating said sleeve abutment surface and said shaft abutment surface

(col. 5, ln. 22-25), but fails to disclose the gripping jaw comprising an attachment side and a pair of lever member positioned to selective open the gripping jaw.

However Duell discloses an attachment member that including a gripping jaw, a bore adjacent the gripping jaw, the jaw comprising an attachment side and a pair of lever members positioned to selectively open the gripping jaw (Fig 1A)

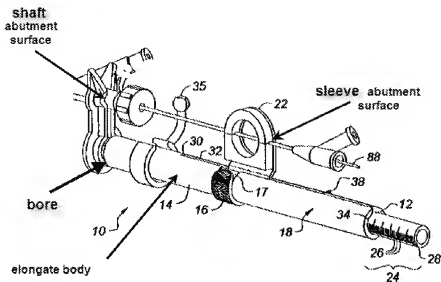
It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the attachment member of Korotko et al to have a pair of lever members to selectively open the gripping jaw as taught by Duell al in order to provide an easy method to reposition the device.



Regarding claim 1, Korotko et al discloses a device capable of being used as a safety clip for a medical catheter that comprises a shaft and a sleeve, the device comprising: an elongate body (14) having a first end, a second end and an intermediate portion, the elongate body first end including a slot 38; an attachment member (35, Fig 1) including a gripping jaw and a bore adjacent the gripping jaw wherein the elongate body is disposed in the bore; and a sleeve abutment surface (see figure below) slidably disposed in the elongate body slot and a shaft abutment surface (see figure below) coupled to the second end of the elongate body spaced from the first end of the body, the sleeve abutment surface and the shaft abutment surface coupled to the shaft, one of the sleeve abutment surface and shaft abutment surface defining a sliding member (22) configured for stepless adjustment of the distance separating said sleeve abutment surface and said shaft abutment surface (col. 5, ln. 22-25), but fails to disclose the gripping jaw comprising an attachment side and a pair of lever member positioned to selective open the gripping jaw.

However Duell discloses an attachment member that including a gripping jaw, a bore adjacent the gripping jaw, the jaw comprising an attachment side and a pair of lever members positioned to selectively open the gripping jaw (Fig 1A)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the attachment member of Korotko et al to have a pair of lever members to selectively open the gripping jaw as taught by Duell in order to provide an easy method to reposition the device.



Regarding claim 3, Korotko et al. disclose the attachment member (35) is slidable on the elongate body (col. 4, ln. 3-19).

Regarding claim 4, Korotko et al. disclose the attachment member (35) is positioned along the intermediate portion of the elongate body (Fig. 5; col. 4, ln. 3-19).

Regarding claim 5, Korotko et al. disclose the slider (22) is configured to slide on the body and defines one of the sleeve abutment surface and the shaft abutment surface (col. 5, 22-25).

Regarding claim 8, Korotko et al. disclose a releasing mechanism for releasing the attachment member from the catheter, without disturbing the spacing between said abutment surfaces (col. 4, ln. 11-19).

Regarding claim 10, Korotko et al. disclose the distance between said abutment surfaces can be selected, and fixed against any further adjustment (col. 5, ln. 2-25).

Regarding claim 11, Korotko et al. disclose a device capable of being used as a safety clip for a medical catheter, comprising: an elongate body (14) having a first end and a second end spaced from the first end, the elongate body first end including a slot 38; an attachment member (11, Fig 1, annotated figure below) including a gripping jaw (gripping jaw attaches 11 to 80 in fig 5, [Col 5], lines 32-41) and a bore adjacent the gripping jaw wherein the elongate body is disposed in the bore coupled to the elongate body; and a first spacing member (22) slidably disposed in the elongate body slot; and a second spacing member (35) coupled to the second end of the elongate body, the first and second spacing members coupled to the shaft, at least one of the first spacing member and elongate body configured to permit movement of the first spacing member relative to the second end of the elongate body (col. 5, ln. 22-25), but fails to disclose the gripping jaw comprising an attachment side and a pair of lever member positioned to selective open the gripping jaw.

However Duell discloses an attachment member that including a gripping jaw, a bore adjacent the gripping jaw, the jaw comprising an attachment side and a pair of lever members positioned to selectively open the gripping jaw (Fig 1A)

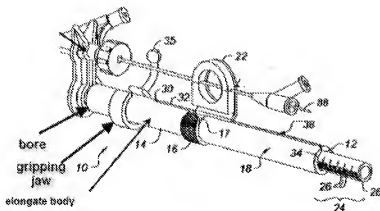
It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the attachment member of Korotko et al to have a pair of lever members to selectively open the gripping jaw as taught by Duell in order to provide an easy method to reposition the device.

Regarding claim 11, Korotko et al. disclose a device capable of being used as a safety clip for a medical catheter, comprising: an elongate body (14) having a first end and a second end spaced from the first end, the elongate body first end including a slot 38; an attachment member (35) including a gripping and a bore adjacent the gripping jaw wherein the elongate body is disposed in the bore coupled to the elongate body; and a first spacing member (22) slidably disposed in the elongate body slot; and a second spacing member (35) coupled to the second end of the elongate body, the first and second spacing members coupled to the shaft, at least one of the first spacing member and elongate body configured to permit movement of the first spacing member relative to the second end of the elongate body (col. 5, ln. 22-25), but fails to disclose the gripping jaw comprising an attachment side and a pair of lever member positioned to selective open the gripping jaw.

However Duell discloses an attachment member that including a gripping jaw, a bore adjacent the gripping jaw, the jaw comprising an attachment side and a pair of lever members positioned to selectively open the gripping jaw (Fig 1A)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the attachment member of Korotko et al to have a pair of lever members to selectively open the gripping jaw as taught by Duell al in order to provide an easy method to reposition the device.





Regarding claim 14, Korotko et al. disclose the attachment member (35) includes a bore configured to permit passage of the elongate body (Fig. 5).

Regarding claim 21, Korotko et al. disclose the attachment member (35) is positioned along the intermediate portion of the elongate body (Fig. 5; col. 4, ln. 3-19).

Regarding claim 22, Korotko et al. disclose the attachment member (35) includes an engagement member (col. 4, ln. 11-14)

Regarding claims 11, 22, and 23 Korotko et al. disclose a device capable of being used as a safety clip for a medical catheter, comprising: an elongate body (14) having a first end and a second end spaced from the first end, the elongate body first end including a slot 38; an attachment member (11) including a gripping and a bore adjacent the gripping jaw wherein the elongate body is disposed in the bore coupled to the elongate body; the attachment member including an engagement member, the engagement member includes a plurality of sets of jaws, each of the sets of jaws configured to grip a different diameter member of a medical catheter (col. 5, ln. 26-41),

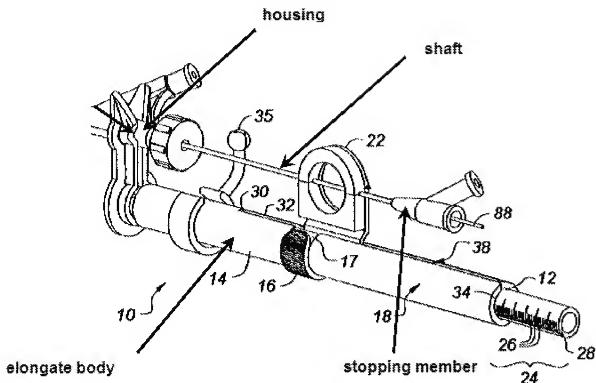
and a first spacing member (22) slidably disposed in the elongate body slot; and a second spacing member (35) coupled to the second end of the elongate body, the first and second spacing members coupled to the shaft, at least one of the first spacing member and elongate body configured to permit movement of the first spacing member relative to the second end of the elongate body (col. 5, ln. 22-25), but fails to disclose the gripping jaw comprising an attachment side and a pair of lever member positioned to selective open the gripping jaw.

However Duell discloses an attachment member that including a gripping jaw, a bore adjacent the gripping jaw, the jaw comprising an attachment side and a pair of lever members positioned to selectively open the gripping jaw (Fig 1A)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the attachment member of Korotko et al to have a pair of lever members to selectively open the gripping jaw as taught by Duell in order to provide an easy method to reposition the device.

Regarding claim 26, Korotko et al. disclose the first spacing member (22) is configured to engage a portion of a medical catheter (col. 26-37).

Regarding claim 27, Korotko et al. disclose the safety clip is attached to a medical catheter including a shaft and a sleeve together configured for relative movement, the sleeve including a housing and the shaft including a stopping member, wherein the first spacing member abuts the stopping member (Fig. 5).



Regarding claim 30, Korotko et al. disclose the second spacing member (35) is fixed to the elongate member and abuts the housing.

3. Claims 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korotko et al. (US 6,450,976) in view of Duell (US 3025581) as applied to claim 22 above, in further in view of Blasnik et al (US 4976721)

Regarding claim 24, Korotko et al. disclose that the engagement member includes at least one set of jaws but fail to disclose the jaws comprising thermoplastic material.

Blasnik et al. disclose a clamp being made from a thermoplastic material. Blasnik et al. discloses forming the device from injection molded thermoplastic is inexpensive to manufacture (col. 35-44).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the engagement member (11) from a thermoplastic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-8 and 10-30 have been considered but are moot in view of the new ground(s) of rejection.
2. Applicant argues that the attachment member and the second spacing member are separate and independent features and cannot be shown or suggested by a single element from the cite art. Examiner upholds the rejection since the attachment member and second spacing member that are disclosed in claims 1 and 11 are independent claims and can thus utilize the same reference for different claimed features.

### ***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER SCHUBERT whose telephone number is (571)270-1656. The examiner can normally be reached on M-F 7:30-5pm ESD.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 5712724713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. S./  
Examiner, Art Unit 3734

/TODD E. MANAHAN/  
Supervisory Patent Examiner, Art Unit 3776